

HLD-114 (April 2008)

April 30, 2008

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 08-1646

IVAN L. MENDEZ

v.

THOMAS L. CARROLL; ET AL.

(D. DEL. CIV. NO. 04-CV-01409)

Present: SCIRICA, Chief Judge, ALDISERT and GARTH, Circuit Judges.

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect; and
- (2) Appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,
Clerk

MMW/TJS/awi

ORDER

The foregoing appeal is dismissed for lack of appellate jurisdiction. A notice of appeal in a civil case in which the United States is not a party must be filed within thirty days of the date of entry of the order appealed. Fed. R. App. P. 4(a)(1). The District Court's order was entered on December 5, 2005. Appellant's notice of appeal was dated February 13, 2008, and postmarked February 14, 2008, and both dates are well beyond thirty days after entry of the order. Because the notice of appeal was filed outside the time period prescribed for filing a notice of appeal, the appeal is dismissed for lack of appellate jurisdiction. See Bowles v. Russell, 127 S. Ct. 2360, 2366 (2007) ("the timely filing of a notice of appeal in a civil case is a jurisdictional requirement"). Because we lack jurisdiction, we do not reach the request for a certificate of appealability.

By the Court,

/s/ Anthony J. Scirica
Chief Judge

Dated: 27 May 2008